THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

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WRIT PETITION No.10550 of 2001

DATE:11-08-2005

Between:

Laxmi Apartments Owners'

Welfare Association

(Regd. No.1886/96),

Rep. by its Secretary Sri P.V. Koteswara Rao

Nallakunta, Hyderabad.

..... PETITIONER

AND

The Managing Director

Hyderabad Metro Water Works and Sewerage Board,

Khairtabad, Hyderabad

& two others

.....RESPONDENTS

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

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W.P. No.10550 OF 2001

ORDER:

The petitioner invokes the jurisdiction of this Court under Article 226 of the Constitution of India with a prayer to declare the action of the respondents in reclassifying the category from domestic to multi-storeyed complex (commercial) and demanding the enhanced water charges without conducting any enquiry as illegal, arbitrary and unjust. The petitioner accordingly prays for issuance of a consequential direction to set aside the Bill No.924520264, dated 01-12-2000, for an amount of Rs.1,10,899/- and further direct the respondents to demand and collect the water charges as applicable to the domestic consumers.

In the affidavit filed in support of the writ petition, it is stated that the petitioners are the occupants of Laxmi Apartment situated at Nallakunta, Hyderabad, consisting of only 12 flats, which were constructed in the year 1996.
The petitioners purchased the same in the year 1996 and thus each one of the members of the association became the owner of their respective flats. It is further submitted that in the ground floor 4 shops were constructed by the builder-cum-owner facing the road and sold them to respective shop owners to which the petitioner association stated to have objected. The sum and substance of the case is that originally the water connection stood in the name of the owner of the building and the charges for water is being paid purely under domestic category. The gravamen of the complaint is that vide bill, dated 31-05-1998, the category has been changed from domestic to multi-storeyed category – III and thus altered the tariff payable in respect of the water connection. The 2nd respondent served a demand notice vide bill, dated 01-12-2000, for an amount of Rs.1,10,899/- and on receipt of the said bill, the petitioner association requested the authorities to reconsider the same. The authorities did not consider the request made by the petitioner association. Hence, this writ petition.

In the counter affidavit, it is clearly explained that Laxmi Apartment is consisting of 12 flats (Ground + 3 floors). The front portion of the ground floor is

occupied by the shops and these shops are purely non-residential in nature and 3 flats are being used for non-domestic purpose. The rear portion of the ground floor is being used for parking for the flat holders/occupants.

That in the year 1997, the Hyderabad Metropolitan Water Supply and Sewerage Board has enhanced the water tariff vide the Board proceedings No.88, dated 20-01-1997, and the relevant portion of the proceeding is as follows:

> "The Apartment complex/Multistoried Building: High Rise Building have a plinth area not less than 1000 Sq.Mtrs or where there are 10 or more than 10 flats and or Non-residential premises (complex) are to be treated as Apartment complex/ Multistoried Buildings."

It is so clear that in terms of the Board Proceedings, the water tariff applicable in respect of Laxmi Apartment is
non-domestic multi-storeyed as defined in the Annexure at Serial No.II(b) referred to hereinabove. It is clearly stated that more than 30% of the plinth area is actually being used for non-domestic purpose. The minimum tariff payable is Rs.200/- + Sewerage cess + Service charges. The said Laxmi Apartment has been subjected to inspection by the authorities and it was found that more than 50% of the ground floor comprising of 7 shops covers 12.5% of the plinth area. The total area that is put to non-domestic activity is estimated at 33.92% i.e. more than 30%. It is under those circumstances, the authorities have characterized the premises in question as the one for non-domestic purpose.

No case is made out requiring any interference of this Court in exercise of its jurisdiction under Article 226 of the Constitution of India.

There is no reply affidavit disputing the facts stated in the counter affidavit filed by the respondents.

I do not find any merit in this writ petition and the same shall accordingly stand dismissed. There shall be no order as to costs.

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B. SUDERSHAN REDDY, J

Date:11-08-2005.

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